

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the *South Carolina*

Patrick Randell McIntosh
Petitioner

v.

9:23-cv-3969-RMG-MHC

Case No.

(Supplied by Clerk of Court)

Secretary for the SC
Respondent

(name of warden or authorized person having custody of petitioner)

Army National Guard
PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: *Patrick Randell McIntosh*
(b) Other names you have used: *n/a*
2. Place of confinement:
(a) Name of institution: *FMC Rochester*
(b) Address: *PMB 4000
Rochester MN 55903-4000*
(c) Your identification number: _____
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☐ Being held on an immigration charge
☒ Other (explain): *Civil Commitment*

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Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☒ Other (explain): Failure to adapt to military lifestyle at basic training

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: South Carolina Army National Guard North Charleston SC
 (b) Docket number, case number, or opinion number: _____
 (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Failure to adapt to military lifestyle
 (d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
 (2) Date of filing: _____
 (3) Docket number, case number, or opinion number: _____
 (4) Result: _____
 (5) Date of result: _____
 (6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: none available

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

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9.

Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

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10.

Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☐ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Petitioner failed to adapt to military lifestyle

(a) Supporting facts (Be brief. Do not cite cases or law.):

Petitioner has an ABSOLUTE right to join a well regulated militia and the SC Army National Guard should have NOT adopted the US Army's decision under the 10th Amendment.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: Petitioner received false equal opportunity statements from privates that were induced by drill sergeants.

(a) Supporting facts (Be brief. Do not cite cases or law.):

The Army's finding of failure to adapt was based on false allegations of racism and sexual harassment. Violation of 5th Amendment right. Chain of Command did not give a hearing after basic training.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE: Petitioner was discriminated against for perceived racism and called a racist and singled out for tattoos.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Petitioner was yelled at by unknown drill sergeant in front of Company B being called a racist in the chow hall. Petitioner was asked repeatedly if he hated them because of his tattoos. Violation of 5th Amendment right.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

cruel and unusual punishment 8th.

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GROUND FOUR: Petitioner was forced to cover up
sickle and hammer Soviet and swastika
tattoo.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Petitioner was forced to cover up
body art protected by the first
amendment to exercise his second
amendment to join a well regulated
(state sponsored) militia.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: unknown

Request for Relief

15. State exactly what you want the court to do:

Appoint Counsel for
a rehearing after remand or vacate
removal from South Carolina Army
National Guard and placement in an ROTC
program at The Citadel Military College
of South Carolina to study cybersecurity
with an appointment to serve as an officer
cybersecurity specialist.

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Declaration Under Penalty Of Perjury

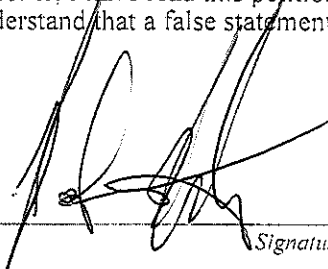
If you are incarcerated, on what date did you place this petition in the prison mail system:

8-1-2023

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

8-1-2023



Signature of Petitioner

Signature of Attorney or other authorized person, if any